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submitted at 10/24/16
Public Hearing

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COPY

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Grafton Conservation Commission
Grafton Municipal Offices
Grafton, Massachusetts

EXHIBIT 24
Received 10/24/16

RE: Estates at Bull Meadow Subdivision
Notice of Intent - Massachusetts Wetlands Protection Act
Grafton Wetlands Bylaw

Dear Members of the Board

Again, please be advised that I represent more than 20 abutters to the above referenced project. I have been retained by the abutters to represent them before the commission as it considers the applications and plans submitted by the applicant. To that end, I have reviewed the Notices of Intent and the Stormwater Management application and the associated plans. Since my last letter, the Applicant has made changes to the plans and application. I have reviewed the amendments and the responses to the peer review.

Wetland Line

My clients' initial concern raised at the last Commission meeting dealt with the delineation line established by the applicant. Again, the line appears to be too irregular, too coincidental and too convenient. It is inconsistent with online mapping available through MassGIS. Admittedly, those maps may be less accurate than field generated surveys. However, because the proposal calls for filling over 4900 square feet of wetlands, the actual line should be reviewed in detail. The peer review conducted by Graves Engineering does not deal with the wetlands line. JMM's report does not specifically confirm the delineation on the Applicant's plans. EcoTec's response letter dated October 10, 2016 simply "presumes" the line to be accurate.

My clients respectfully request that the Commission confirm specifically from the peer review consultant that the wetlands line is exactly where the Applicant delineates it. This is important, because if the line is off by as little as 3 feet, with the width of the crossing being 42 feet wide, the proposal exceeds the maximum allowable fill. It is particularly noted that the wetland line is not consistent with the existing conditions topography lines. At points, the wetlands delineation conveniently turns away from the topography lines or runs parallel to them, feet away. The commission should be wary of proposed delineation. We request that the

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Commission actually sample soils at the exact location of the southerly and northerly ends of the proposed fill. If the soils are hydric, then the application should be reevaluated in order to ensure that the fill will be less than 5000 square feet. The two simple evaluations were not conducted.

Endangered Species and Natural Heritage

The Notice of Intent indicates that the area is not on the Natural Heritage map. However, the entire site is on the map, as currently published online. Nearly the entire property is located within both priority habitat and estimated habitat. The NOI should be corrected. More importantly, the matter should be reviewed by Natural Heritage. The applicant has submitted a "no-take" letter. The letter cautions that the determination is based on prior submitted plans and proposals. If the plans changed, then the determination would be inapplicable and Natural Heritage would still be involved.

We note that earlier versions of this project showed an elevated wetland crossing with a 60 wide opening at the bottom. Although the new proposal increases the culvert from 10 feet to 25 feet, the proposal is still significantly different than that proposed to Natural Heritage when the "no-take" letter was issued. The matter should be reviewed for consistency with natural heritage. An updated no-take determination should be required.

The Crossing

The crossing is not good for the wetlands, and has been designed with significant issues. In the original filing, the crossing was 50 feet wide. Now, the crossing is 42 feet wide. Having reduced the fill by 8 feet along the entire length of the crossing, and increasing the width of the culvert from 10 feet to 25 feet should have generated more than 90 square feet of preserved fill. The math provided by the Applicant does not make sense, and calls into question the integrity of all of the numbers. This matter is important because the crossing plan does not contain any dimensional information. The true length of the crossing is not spelled out on the plan.

The Applicant has submitted requests for waivers from the Planning Board. In its waiver request, the Applicant describes the elevated crossing to run from Station 12+49.47 to Station 14+44.18. That means that the crossing is nearly 200 feet long. From station to station, with a 42 foot width, the crossing would exceed 8000 square feet. Reducing disturbance by 1050 square feet, the numbers on the plan do not add up. It appears that the application seeks a fill of more than 7000 square feet. Using numbers given to the planning board, the crossing exceeds the limits. Giving the applicant the benefit of the doubt, when one scales out the crossing, it appears that the length exceeds 150 feet. At 42 feet wide, and with credit for the 25 foot culvert, the crossing still appears to exceed the maximum, by over 400 square feet. Therefore, the commission should require detailed and accurate dimensions, with metes and bounds and distances, so that the calculation of disturbed area may be reconciled.

The plan now provides details of the roadway cross-section and the retaining walls. The applicant is seeking waiver from the Planning Board for both width of road and depth of fill in the area of the crossing. Those concerns are legitimately before the Planning Board, but should be of particular concern to the Commission. Here, the applicant proposes an elevated roadway,

12 feet above the wetlands. The crossing is located at the bottom of a slope over 5%. The crossing will be along a 200 foot curve *to the right*, with a travel lane radius of less than 125 feet. There is nearly no room for snow storage. All of the ingredients for disaster are here.

The Planning Board will review the request for waivers and consider whether public safety will be compromised. We trust the Planning Board will deny the application. Nevertheless, the Commission should consider the possible effects of travel on the roadway with possible impact on wetlands. If an accident should occur in this area of roadway, the wetlands below will be directly affected. Snow storage, salts, sands and oils are certain to pose risks to the wetland system. The grade of the road down to the crossing promises to feed the wetlands at the bottom. The design could not be worse, and the Applicant has proposed no alternatives.

The Commission should respectfully reserve their determination until the Planning Board has approved the plan. Given that the Applicant is requesting significant waivers in road width and elevation, it is highly possible that the current version of the plan may not be the final one.

Drainage and Erosion Controls

There are other issues. The ponds are designated as infiltration ponds. The Commission should confirm whether the soil is suitable for infiltration. Because they are extremely close to the wetlands, depth to groundwater may limit their effectiveness. No testing has been done to confirm the appropriateness of the soils. The Applicant advises the Commission that it will do the tests when the approval is granted. In all due respect, the testing should have been done as part of the planning process, and the Applicant should be able to document the efficacy of the design when asked by the Commission.

They are asking for waivers from pipe size and pitch requirements. They seek to waive minimum cover over the cross-country drainage. All such requests should be denied. Water volume and velocity must be controlled. Ground cover is necessary to ensure that the pipes do not have freezing and back up in the winter. Those concerns are very genuine to my clients, particularly those who live closest to this site. The Commission should grant no waivers. This area has already been the site of a siltation problem.

We ask the commission to carefully consider the proposal and carefully consider the plans and the limits of wetland lines. Look at what is being proposed. Compare this to what they submitted to natural heritage. Require that the plans adequately protect the wetlands and the habitat on site. There are several potential vernal pools identified by natural heritage for the site. Two are immediately under the proposed roadway

Buffer Zone

Finally, this is a wetland crossing filing. But it is also a buffer zone filing. You rightfully review the crossing; it proposes a serious impact on the wetlands and a significant actual disturbance of the wetlands. But you should not ignore the buffer zone. The NOI virtually has ignored it. The applicant propose a development without any regard of the buffer zone. They

have all but disregarded the buffer zone and propose to alter almost every inch of it. Even if the line is as shown on the plans, all of the buffer zone is disturbed with the exception of the 25 foot zone. If it moves only a few feet, nearly the entire buffer zone is obliterated.

Conclusion

The abutters respectfully request

1. Determine the true wetland line and do not rely on the plans. Have an independent engineer review the drainage and stormwater protection. Have an independent wetlands scientist review the wetland line. Confirm the line based on hydrology.
2. If the project exceeds 5000 square feet, deny it.
3. If the project fills vernal pools, deny it
4. If the project is in habitat areas, make the developer get approval for these plans from the state
5. Determine whether the permanent drainage system is proper and that the soils are proper. Get testing where they propose the ponds.
6. Carefully review every application for the houses when advanced. We want to note for the record that these houses are all title v. The houses and the septic systems are in the buffer zone.
7. Defer any decision until there has been a full and final approval of the Planning Board. There are too many unknown design issues for the Commission to give approval.
8. Finally, there is a river on the property. The river appears to be an intermittent stream. Therefore, if intermittent, the Riverfront resource concerns expressed earlier are withdrawn.

We thank you for your considerations. If you have any questions, please do not hesitate to contact me. Thank you.

Very truly yours:

George P. Kiritsy